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| <b>TRANSMITTAL AND NOTICE OF APPROVAL OF<br/>STATE PLAN MATERIAL<br/>FOR: CENTERS FOR MEDICARE AND MEDICAID SERVICES</b>   |  | <b>1. TRANSMITTAL NUMBER:</b><br><br><div style="text-align: center;"><b>04-31</b></div>  | <b>2. STATE:</b><br><br><div style="text-align: center;"><b>TEXAS</b></div> |
|  |  | <b>3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)</b>   |   |
| <b>TO: REGIONAL ADMINISTRATOR<br/>CENTERS FOR MEDICARE AND MEDICAID SERVICES<br/>DEPARTMENT OF HEALTH AND HUMAN SERVICES</b>   |  | <b>4. PROPOSED EFFECTIVE DATE:</b><br>December 1, 2004  |   |
| <b>5. TYPE OF PLAN MATERIAL (Circle One):</b><br><br><input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT   |  |   |   |
| <b>COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)</b>   |  |   |   |
| <b>6. FEDERAL STATUTE/REGULATION CITATION:</b><br>Title XIX, Social Security Act, as amended   |  | <b>7. FEDERAL BUDGET IMPACT: SEE ATTACHMENT</b><br>a. FFY 05      \$ (118,381) savings<br>b. FFY 06      \$ (141,054) savings                             |   |
| <b>8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:</b><br><br>SEE ATTACHMENT   |  | <b>9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable):</b><br><br>SEE ATTACHMENT   |   |
| <b>10. SUBJECT OF AMENDMENT:</b><br>The Texas Health and Human Services Commission (HHSC) proposes an amendment to the Texas Medicaid State Plan concerning Pharmacy Dispensing Fees. HHSC proposes to add an incentive reimbursement for dispensing generic products for which a manufacturer has offered a supplemental rebate to the state. Under Texas Government Code § 531.070(h), HHSC is required to include generic drug products in the Preferred Drug List (PDL), created by Texas Government Code § 531.0702. The effective date of the amendment is December 1, 2004. |  |   |   |
| <b>11. GOVERNOR'S REVIEW (Check One):</b><br><input type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input checked="" type="checkbox"/> OTHER, AS SPECIFIED:<br><input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED      Sent to Governor's Office this date. Comments, if any, will be<br><input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL      forwarded upon receipt.   |  |   |   |
| <b>12. SIGNATURE OF STATE AGENCY OFFICIAL:</b><br>  |  | <b>16. RETURN TO:</b><br><br><b>David J. Balland</b><br><b>State Medicaid Director</b><br><b>Post Office Box 85200</b><br><b>Austin, Texas 78708-5200</b> |   |
| <b>13. TYPED NAME:</b><br>David Balland  |  |   |   |
| <b>14. TITLE:</b><br>State Medicaid Director   |  |   |   |
| <b>15. DATE SUBMITTED:</b><br>December 29, 2004  |  |   |   |
| <b>FOR REGIONAL OFFICE USE ONLY</b>  |  |   |   |
| <b>17. DATE RECEIVED:</b><br>28 DECEMBER 2004  |  | <b>18. DATE APPROVED:</b><br>22 MARCH 2005  |   |
| <b>PLAN APPROVED - ONE COPY ATTACHED</b>   |  |   |   |
| <b>19. EFFECTIVE DATE OF APPROVED MATERIAL:</b><br>1 DECEMBER 2004   |  | <b>20. SIGNATURE OF REGIONAL OFFICIAL:</b><br>                        |   |
| <b>21. TYPED NAME:</b><br>ANDREW A. FREDRICKSON  |  | <b>22. TITLE:</b> ASSOCIATE REGIONAL ADMINISTRATOR<br>DIV OF MEDICAID & CHILDREN'S HEALTH   |   |
| <b>23. REMARKS:</b><br><br><br>  |  |   |   |

Item 5. Reimbursement Methodology for the Pharmacy Dispensing Fee

I. General

The upper limit for payment for prescribed drugs, whether legend or nonlegend items, will be based on the lower of cost as defined by the Texas Health and Human Services Commission (HHSC) or its designee plus a dispensing fee as defined and determined by HHSC or its designee or the usual and customary charge. Where a public agency makes bulk purchases of drugs, payment will be made in accordance with the governmental statutes and regulations governing such purchases in accordance with the agreement between such public agency and HHSC or its designee. These provisions do not apply to payment for drugs in hospitals and other institutions where drugs are included in the reimbursement formula and vendor payment to the institution.

HHSC or its designee will advise the Centers for Medicare and Medicaid Services (CMS) in writing of the uniform, reasonable dispensing fee which will be used to establish how the State is in compliance with the upper limit as specified in the regulations and as determined by the methodology described in this Plan. Such notice will specify the time period for which it is effective.

II. Reimbursement Methodology

HHSC or its designee reimburses contracted Medicaid pharmacy providers according to the dispensing fee formula defined in this section. The dispensing fee is determined by the following formula: Dispensing Fee = (((Estimated Drug Cost + Estimated Dispensing Expense) divided by (1 - Inventory Management Factor)) - Estimated Drug Cost) + Delivery Fee + Preferred Generic fee.

A. Drug Ingredient Cost

The estimated drug costs are defined in Section IIC (Legend and Nonlegend Medications)) and IID (Texas Maximum Allowable Cost).

B. Dispensing Fee Determination

- (1) The estimated dispensing expense was \$5.27 effective September 1, 1997. The estimated dispensing expense effective October 16, 2003, is \$5.14.
- (2) The inventory management factor was 2.0% prior to October 16, 2003, and is 1.95% effective October 16, 2003.
- (3) The total dispensing fee shall not exceed \$200 per prescription.

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- (4) A delivery incentive shall be paid to approved providers who certify a form prescribed by HHSC or its designee that the delivery services meet minimum conditions for payment of the incentive. These conditions include: making deliveries to individuals rather than just to institutions, such as nursing homes; offering no-charge prescription delivery to all Medicaid recipients requesting delivery in the same manner as to the general public; and publicly displaying the availability of prescription delivery services at no charge. The delivery incentive is \$0.15 per prescription and is to be paid on all Medicaid prescriptions filled. This delivery incentive is not to be paid for over-the-counter drugs, which are prescribed as a benefit of this program.
- (5) A generic drug dispensing incentive of \$0.50 per prescription shall be paid on all Medicaid prescriptions filled for preferred generic drugs for which a manufacturer has agreed to pay a supplemental rebate. Preferred generic drugs are subject to the requirements for placement on the Preferred Drug List (PDL).

C. Legend and Nonlegend Medications

For all medications, legend and nonlegend, covered by the Vendor Drug Program (VDP) and appearing in the Texas Drug Code Index (TDCI) and updates, the following requirements must be met.

- (1) A pharmaceutical provider is reimbursed based on the lesser of the HHSC's best estimate of acquisition cost (EAC) plus the HHSC's currently established dispensing fee per prescription or the usual and customary price charged the general public.
- (2) EAC is defined as wholesale estimated acquisition cost (WEAC); direct estimated acquisition cost (DEAC), according to the pharmacist's usual purchasing source and the pharmacist's usual purchasing quantity; or maximum allowable cost (MAC) for multi-source drugs.
  - A. EAC is verifiable by invoice audit conducted by HHSC to include necessary supporting documentation that will verify the final cost to the provider.
  - B. All drug purchases through a central purchasing agreement or from a central purchasing entity must be billed to HHSC or its designee as warehouse purchases
  - C. The WEAC is established by HHSC or its designee using market sources, which include, but are not limited to: the current Redbook; Redbook Update; First Databank; First Alert; or reported manufacturer pricing.

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